

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 769 of 1998

in

SPECIAL CIVIL APPLICATION No. 6803 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL Sd/-
And

MR.JUSTICE P.B.MAJMUDAR Sd/-

- =====
1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements? No
 2. To be referred to the Reporter or not? No :
 3. Whether Their Lordships wish to see the fair copy : YES
of the judgement? No
 4. Whether this case involves a substantial question : YES
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No
 5. Whether it is to be circulated to the Civil Judge?No :

COMPETENT AUTHORITY AND ADDL.COLLECTOR

Versus

HARIBAHU MANIBHAI PATEL

Appearance:

MR ST MEHTA, AGP for Appellants
MR PM BHATT for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE J.M.PANCHAL and
MR.JUSTICE P.B.MAJMUDAR

Date of decision: 21/12/1999

ORAL JUDGEMENT

(Per : Panchal, J.)

By means of filing this appeal under Clause 15 of the Letters Patent, the appellants have challenged judgment dated February 11, 1997 rendered by the learned Single Judge in Special Civil Application No. 6803/96 by which matter is remanded to Competent Authority and Additional Collector, Baroda for deciding the case afresh in light of observations made therein.

2. The respondent no.1, who is original petitioner no.1, had filed a statement in respect of his lands situated in village Gotri, District : Baroda under section 6(1) of the Urban Land (Ceiling and Regulation) Act, 1976 ("the Act" for short). In the said statement, respondent no.1 had disclosed holding of agricultural as well as non-agricultural lands. The respondent no.1 had applied to the State Government for exemption under section 20 of the Act. By order dated February 22, 1990, State Government had granted exemption to 16 parcels of agricultural lands. In view of exemption order passed by the State Government under section 20 of the Act, Competent Authority took into consideration six pieces of land to find out whether respondent no.1 was holding excess land or not. Particulars of those lands are as under :-

Sr.No. Survey No. Area

- | | | |
|----|--------------------------|----------|
| 1. | 976/1 | 11635-00 |
| 2. | 983 | 5868-00 |
| 3. | 867 | 2125-00 |
| 4. | 67/1 | 3446-00 |
| 5. | 69 | 4148-00 |
| 6. | City Survey Nos. 13 & 17 | 50-00 |

Ultimately, the Competent Authority by order dated November 25, 1992 held that respondent no.1 was not holding any excess land and ordered the statement submitted by respondent no.1 to be filed. The Competent Authority while passing order dated November 25, 1992 had held that so far as Survey No.67/1 was concerned, share of Vimalaben Bakorbhai Patel, who is wife of respondent no.1, was liable to be included in respondent no.1's holding. Therefore, respondent no.1 filed Appeal No.78/93 before Urban Land Tribunal; whereas the State Government filed Appeal No. 79/93 against order of the Competent Authority. The Urban Land Tribunal by its order dated July 18, 1996 set aside the order dated

November 25, 1992 which was passed by the Competent Authority and remanded the matter for taking fresh decision. Feeling aggrieved by the above referred to order of the Tribunal, respondent no.1 filed Special Civil Application No.6803/96 in the High Court and the High Court by the impugned judgment has remanded the matter to the Competent Authority with certain directions which has given rise to the present appeal.

3. It may be mentioned that the Parliament has enacted The Urban Land (Ceiling and Regulation) Repeal Act, 1999 by which The Urban Land (Ceiling and Regulation) Act, 1976 is repealed. Section 4 of the repealing Act provides that all proceedings relating to any order made or purported to be made under the repealed Act pending before commencement of the repealing Act, before any Court, Tribunal or other authority, shall abate. The proviso to the said section specifies that section 4 shall not apply to the proceedings relating to Sections 11, 12, 13 & 14 of the repealed Act in so far as such proceedings are relatable to the land, possession of which has been taken over by the State Government or any person authorised by the State Government in this behalf or by the Competent Authority. The record of the case does not indicate that after remand of the matter by the High Court, possession of the lands in question was taken over either by the State Government or by any authority. Mr. S.T.Mehta, learned Counsel for the appellants has produced a letter dated December 4, 1999 addressed by the Competent Authority and Deputy Collector (Land Reform), Vadodara stating that fraudulent documents were produced by respondent no.1 to indicate that Vimalaben Haribhai Patel had mortgaged survey nos. 67/1 & 69 to Union Bank of India and had obtained loan of Rs. 12,000/-, on the basis of which survey no.67/1 was included into the holding of respondent no.1 and as respondent no.1 has caused wrongful loss to the State Government, appropriate representation should be made before Court hearing Letters Patent Appeals. The letter dated December 4, 1999 addressed by the Competent Authority and Deputy Collector (Land Reform), Vadodara to the learned Government Pleader, Gujarat High Court, Ahmedabad along with documents annexed to it, is ordered to be taken on record of the case. In the letter dated December 4, 1999, it is not the case of the Competent Authority and Deputy Collector (Land Reform), Vadodara that after order of remand passed by the High Court, possession of lands in question was taken over. It is not brought to the notice of the Court by the learned Assistant Government Pleader that possession of the lands in question was taken over by the State Government at any point of time.

Under the circumstances, we are of the opinion that Letters Patent Appeal will have to be treated as having abated in terms of provisions of the repealing Act. As Letters Patent Appeal has abated, the same deserves to be disposed of accordingly.

For the foregoing reasons, it is held that Letters Patent Appeal has abated. We make it clear that we have not pronounced upon the legality or otherwise of the judgment rendered by the learned Single Judge which is impugned in the appeal or the order passed by the Urban Land Tribunal. It will be open to the respondents to point out to the Competent Authority that the proceedings have abated in view of the provisions of the repealing Act. The Letters Patent Appeal is, therefore, dismissed as having abated, with no order as to costs.

(patel)